

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

THEODORE BRISCOE,)	
)	
Petitioner,)	
)	
v.)	No. 1:18-cv-00072-TWP-MJD
)	
STATE OF INDIANA,)	
)	
Respondent.)	

Entry Dismissing Petition and Directing Entry of Final Judgment

The petitioner's petition for writ of habeas corpus challenging his state court conviction was filed on January 9, 2018. On January 17, 2018, the Court ordered the petitioner to show cause why his petition should not be dismissed for failure to exhaust state court remedies. In that Entry, the Court explained that Rule 4 of the *Rules Governing Section 2254 Cases in the United States District Courts* provides for dismissal of a petition "[i]f it plainly appears from the petition and any attached exhibits that the petitioner is not entitled to relief in the district court."

Petitioners must exhaust their state court remedies before seeking relief in habeas corpus. *Lewis v. Sternes*, 390 F.3d 1019, 1025 (7th Cir. 2004). But exhibits presented with the petition indicated that the petitioner has not exhausted his state court remedies.

The petitioner's response to the order to show cause contained allegations that he received ineffective assistance of counsel but did not address whether he had exhausted his state court remedies. Because it is clear from his petition and its exhibits that he has not exhausted his state court remedies, his petition is **dismissed without prejudice** which means that the petitioner may refile his petition after exhausting his state court remedies.

Judgment consistent with this Entry shall now issue.

IT IS SO ORDERED.

Date: 2/5/2018

A handwritten signature in black ink, reading "Tanya Walton Pratt", written over a horizontal line.

TANYA WALTON PRATT, JUDGE
United States District Court
Southern District of Indiana

Distribution:

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